

Definitions of Clery-Reportable Crimes

The following definitions are used for reporting Clery crimes, which are derived from the Federal Bureau of Investigation's Uniform Crime Reporting (FBI's UCR) program and Department of Education regulations, as follows:

- i) The definitions for *Murder/Non-Negligent Manslaughter, Manslaughter by Negligence, Rape, Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson, Weapons: Carrying, Possessing, Etc., Law Violations, Drug Abuse Violations, and Liquor Law Violations* are from the "Summary Reporting System (SRS) User Manual" from the FBI's UCR Program.
- ii) The definitions of *Fondling, Incest, and Statutory Rape* are excerpted from the "National Incident-Based Reporting System (NIBRS) User Manual" from the FBI's UCR Program.
- iii) The definitions of *Larceny-Theft (except Motor Vehicle Theft), Simple Assault, Intimidation and Destruction/Damage/ Vandalism of Property* are from the "Hate Crime Data Collection Guidelines and Training Manual" from the FBI's UCR Program.
- iv) The definitions of *Domestic Violence, Dating Violence, and Stalking* are from the Department of Education's Clery Act implementing regulations at 34 C.F.R. §668.46

1.00 Criminal Offenses/Primary Crimes

- 1. **Murder/Non-negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.
- 2. **Manslaughter by Negligence:** The killing of another person through gross negligence.
- 3. **Sexual Assault/Sex Offenses**
 - a. **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - b. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental capacity.
 - c. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- 4. **Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- 5. **Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious

personal injury if the crime were successfully completed.)

6. **Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
7. **Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all incidents where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned – including joyriding).
8. **Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

2.00 Arrest and Referrals for Disciplinary Action

CSUMB is also required to report statistics for the following categories of arrests and referrals for campus disciplinary action (if an arrest was not made):

1. **Weapons: Carrying, Possessing, Etc.:** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification encompasses weapons offenses that are regulatory in nature.
2. **Drug Abuse Violations:** The violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of State and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs.
3. **Liquor Law Violations:** The violation of State or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.

3.00 Hate Crimes

Hate crime: A criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.

Hate crime includes all of the above-mentioned offenses (with the exception of Manslaughter by Negligence and Weapons: Carrying, Possessing, Etc., Drug Abuse Violations, and Liquor Law Violations). In addition to those offenses, larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property are also classified as hate crimes¹.

¹ Larceny-theft, simple assault, intimidation and destruction/damage/vandalism of property are not Clery-reportable crimes unless the crime was motivated by bias.

1. **Larceny-Theft:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.
2. **Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
3. **Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
4. **Destruction/Damage/Vandalism of Property:** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or person having custody or control of it.

Hate crimes must be reported by category of bias.

Bias: a preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, ethnicity, national origin, gender, or gender identity.

- a. **Race:** A preformed negative opinion or attitude toward a group of persons who possess common physical characteristics (e.g., color of skin, eyes, and/or hair; facial features, etc.) genetically transmitted by descent and heredity, which distinguish them as a distinct division of humankind (e.g., Asians, Blacks or African Americans, Whites).
- b. **Religion:** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.
- c. **Sexual Orientation:** A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation. Sexual Orientation is the term for a person's physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.
- d. **Gender:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g. male or female.
- e. **Gender identity:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals. Gender non-conforming describes a person who does not conform to the gender-based expectations of society, e.g., a woman dressed in traditionally male clothing or a man wearing makeup. A gender non-conforming person may or may not be a lesbian, gay, bisexual, or transgender person but may be perceived as such.
- f. **Ethnicity:** A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language,

common culture (often including a shared religion) and/or ideology that stresses common ancestry. The concept of ethnicity differs from the closely related term “race” in that “race” refers to a grouping based mostly upon biological criteria, while “ethnicity” also encompasses additional cultural factors.

- g. **National Origin:** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth. This bias may be against people that have a name or accent associated with a national origin group, participate in certain customs associated with a national origin group, or because they are married to or associate with people of a certain national origin.
- h. **Disability:** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

4.00 VAWA (Violence Against Women) Offenses²

1. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
(B) Dating violence does not include acts covered under the definition of domestic violence.
2. **Domestic Violence:** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
3. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his/her safety or the safety of others; or (B) suffer substantial emotional distress. For the purposes of this definition—
(A) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
(B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
(C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

² The name VAWA is delegated per federal regulation; however, reports of this nature are taken by a victim regardless of gender or identity and includes all intimate partner violence.